

FRENCH SPOILIATIONS.

REPORT AND RESOLUTIONS

OF

THE GENERAL ASSEMBLY OF RHODE ISLAND,

Relative to French spoiliations.

FEBRUARY 23, 1844.

Referred to the Committee on Foreign Affairs.

IN GENERAL ASSEMBLY.

HOUSE OF REPRESENTATIVES, January, 1844.

The committee, to whom were referred the resolutions of the Legislature of Connecticut, in relation to claims for French spoiliations, communicated to this House by his excellency the Governor, have had the subject under consideration, according to the order of the House, and respectfully submit the following report :

The claims of our citizens upon the General Government for French spoiliations prior to the convention of 1800, are, in effect, but claims for that just compensation which the constitution of the United States expressly provides for all whose private property is taken for public use. The words of the constitution are, "nor shall private property be taken for public use, without just compensation."

These claims were originally valid and admitted claims against the French Government.

The claim of an individual of one nation upon the Government of another, for illegal captures or confiscations of his property under the authority and command of that Government, is property. The claim is a portion of the private property of the individual. As such, it has its specific value in market; it is transferable for value; and, on the death of its owner, it passes to his legal representatives. It is true, it cannot be enforced in a court of law, for nations are not amenable to such tribunals. But the right is not without its remedy. Nations are amenable to each other, under the laws of nations; and the appropriate and well-known remedy, in such cases, is negotiation; or, if that fails, war. It is true that flagrant and formal war—what is called "solemn war"—so far dissolves the claim, that unless the nation which declares the war is so successful in it as to be able to secure the indemnity by the treaty which ensues, the indemnity may be

lost. Still, by the code of nations, war is the penalty upon which an unjust nation refuses right. It may rather be called the process for enforcing right, as civil tribunals employ force, in the last resort, in their process for compelling the justice which is not voluntarily rendered. But in the case of demands upon nations, where the validity of the claims is either admitted or apparent, resort to war has long ceased to be necessary. Our whole experience, as a nation, shows the truth of this. Millions upon millions have been claimed and recovered of foreign Governments, through the peaceful remedy of negotiation; and numerous as are the Governments against which we have had occasion to urge such demands, we have as yet found no christian Government willing to encounter war by a plain refusal to comply with its responsibilities in such cases. The remedy by negotiation is therefore believed to be sufficient.

All Governments are bound to assert for their citizens, or subjects, the rights which they are entitled to claim against foreign Governments; and to prosecute those rights for the obtaining of complete redress, where redress is delayed or refused. They are bound to do this, as much as they are bound to provide legal remedies in proper tribunals of justice for wrongs committed by and upon individuals within their own jurisdiction; and as much as the officers and courts of law are bound to apply the remedies which the laws provide.

Where the injury, on which the demand is founded, was accompanied at the time by a promise of indemnification, or was followed by an admission of responsibility, the value of the claimant's property in the claim can seem to be subject to no contingency, unless he may apprehend one in some neglect or mismanagement of his own Government, or in the insolvency of the Government that owes the indemnity.

The claims in question are for captures and confiscations of some six or seven hundred vessels and their cargoes, under the authority of certain decrees issued by France, between 1793 and 1800, in a war in which we were neutrals. France promised indemnification to the innocent neutrals that should suffer under those decrees; and she subsequently acknowledged her responsibility for these particular claims. In the negotiation in which our Government took charge of them, France expressed herself disposed to pay to our Government, in money, the amount that should be ascertained, by commissioners, to be due upon them; in which case, he would expect similar indemnities to be paid in money, to her, for some sixty claims of her citizens against our Government; also, payment of such national claims as she might establish, and a full compliance with all the national rights that had accrued to her under existing treaties; or else, to pay our Government the full value of the indemnities due to our citizens as claimed, by offsetting so much thereof against the claims of her citizens as would indemnify them, and the residue against a portion of her national claims and rights, which, to a certain extent, she would thereupon relinquish as against us.

The owners of these claims, then, held them in 1800 as property, recognised and protected by the principles and remedies of public law; as absolutely property, to all intents and purposes, as is property in any vested right to damages, property in any chose in action, or any other property in title, which, as between citizen and citizen, is recognised and protected by the provisions and remedies of municipal law. As property, they could be transferred for valuable consideration, or assigned for security; they descended from ancestor to heir, and were administered by executors and administrators.

In 1801, the Government of the United States took the whole of this private property for public use. It took this property, and appropriated it to and for the use and benefit of the whole nation, as arranged for and designated in the ratifications of a convention with France, commenced in 1800, and finally ratified in 1801. In the negotiation which ended in that convention, these claims were the prominent subject of demand on our part, while, on the part of France, aside from a comparatively few claims in behalf of individuals, the demands were of a different character; they were for performance thereafter, and for reparation for non-performance theretofore, of treaty stipulations that had been found to be very onerous to the Government and people of the United States, and were likely to become still more so. In that negotiation our Government took the control of the claims of its own citizens, and deliberately, and no doubt wisely, extinguished them as against France, by releasing that nation therefrom, for the consideration of a release from France to the United States of matters of most critical interest, and of incalculable importance to our whole country.

One of these matters was the obligation of the United States, by the treaty of alliance of February 6, 1778, to guaranty to France, against all other powers, and *forever*, all her dominions on this side of the Atlantic, including St. Domingo and her other West India islands, as they were possessed by her in 1778. This obligation is found in the following words in the 11th article of that treaty: "The two parties guaranty mutually, from the present time, and forever, against all other powers, to wit: the United States to his Most Christian Majesty, the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of peace; and his Most Christian Majesty guaranties, on his part, to the United States, their liberty, sovereignty, and independence," &c.; "and also their possessions," &c.

Of that treaty we had the full benefit in the large and efficient assistance we thenceforth received from France, which contributed to the early and successful result of the war of the Revolution, in the establishment of our independence. Having established our independence, and having no foreign possessions, the guaranty on the part of France was thereafter, in effect, merely nominal. But France had foreign possessions in our neighborhood, constantly and eminently exposed to assault and conquest. We have seen them successively torn from her dominion. The guaranty on our part, therefore, was of grave and serious consequence, pregnant with peril and expense to the nation; and the fulfilment of it must inevitably, and often, have embroiled us in war.

Another of these matters was the claim of France, under the treaty of amity and commerce of February 6, 1778, which contained mutual and large concessions of exclusive privileges to the people and Government of each nation, in regard to their commerce and navigation, their ships of war and privateers, and the proceedings of their several functionaries in each other's ports, in relation to prizes and other subjects. Among other advantages secured to France by this treaty, was that of using our ports for the shelter and accommodation of her public ships of war and privateers; for repairing, providing, and fitting them out; for receiving, protecting, and dismissing, at pleasure, her prizes, without entry or duties, and without interference on our part, either through our admiralty courts or otherwise: from all which privileges every enemy of France was expressly and forever excluded.

Another of these matters arose under the consular convention of November 14, 1788, securing to the consuls and vice consuls of France independent powers of police and judicature in our ports.

What inconvenience, annoyance, and public inflammation had arisen in the interval between 1788 and 1800, from the exercise of the powers and privileges claimed under these treaties by the consuls and vice consuls, and by one of the ministers of France in this country; what accusations, re-creminations, and charges of abuse of privileges so liable to abuse, had pervaded and agitated the country, may well be remembered by many of our citizens.

France, then, in the negotiation of 1800, proceeded upon the ground of an undisputed right of our citizens to indemnity from her for losses under her decrees, and by means of her privateers and agents. She was bound to make this admission, not only by the laws of nations, but also by her own express engagement, as contained in her decree of the 9th of May, 1793, directing the capture of neutral vessels—which was the first decree that seriously affected our commerce, and contains these words: “Provisions belonging to neutrals *shall be paid for* according to the value in their destined ports; neutral vessels, after discharging the parts of their cargoes consisting of provisions and enemies’ goods, *shall be released*, their stipulated freight shall be paid, and the tribunals shall allow them a *just indemnification for the detention*.” In a letter of the 14th of October, 1793, the French Minister of Foreign Affairs apologises to our minister (Mr. Morris) for the capture of our vessels authorized and made under that and subsequent decrees, informing him that the republic had been put to this painful necessity by “the extreme rigor with which the English and other belligerents treat all the neutral vessels destined for France.” In the same letter the same minister says: “We hope that the Government of the United States will attribute to their true cause the abuses of which you complain, as well as other violations of which our cruisers may render themselves guilty in the course of the present war;” and “the difficulty of distinguishing our allies from our enemies has often been the cause of offences committed on board your vessels; all the administration could do, is *to order indemnification to those who have suffered*, and to punish the guilty.”

But in 1800 France placed, against our demand for this promised indemnification, her own demand for a full performance on our part, and a full indemnity for past non-performance of our engagements and obligations under the treaties. These were of so irksome and hazardous a character, they pressed so closely upon our independence and sovereignty, and called for such sacrifices in regard to our tranquillity and our resources, that our Government had long seen that at some price or other we must be rid of them. But France insisted on an adherence to such of them as seemed at once very important to her, and very troublesome to us; and she put so high a value upon the modification or relinquishment of such of them as she would consent to modify or relinquish, that our envoys found it was beyond their power to come, at that time, to a definite agreement upon either of these demands. The last and most moderate proposition submitted to them by the French ministers was of the 4th of September, in these words:

“We shall have the right to take our prizes into the ports of America.”

“A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other.”

“The indemnities which shall be due by France to the citizens of the

United States *shall be paid by the United States*. And, in return for which, France *yields the exclusive privilege* resulting from the 17th and 22d articles of the treaty of commerce, and from the *rights of guarantee* of the 11th article of the treaty of alliance."

By this it appears that France valued her rights under the treaties, and her claim for violations of them, at a much higher rate than the amount due from her to American citizens; for, after sacrificing a large portion of those rights, and all her national claim of damages for the payment of that amount, she still insisted on reserving the important right, under those treaties, of bringing her prizes into our ports. But the great privileges and the large claims against our Government for national damages, which she was willing to relinquish in payment of the claims of our citizens, shows how high a value she attached to those claims, and how unqualified was her sense of the obligation that rested upon her to pay them.

Our envoys deemed this proposition inadmissible, and returned a counter proposition, as the nearest approach they could make to that of France, which was as follows:

"1st. The former treaties shall be renewed and confirmed."

"2d. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their third proposition of the 30th August."

"3d. There shall be mutual indemnities, and a mutual restoration of captured property not yet definitively condemned, according to their fifth and sixth propositions of that date."

"4th. If, at the exchange of ratifications, the United States shall propose a *mutual relinquishment of indemnities*, the French republic will agree to the same; and, in such case, *the former treaties shall not be deemed obligatory*, except that, under the 17th and 22d articles of that of commerce, the parties shall continue forever to have for their public ships of war, privateers, and prizes, such privileges in the ports of each other as the most favored nation shall enjoy."

By this, the guaranty was at all events to be limited and reduced to an engagement on the part of each, whenever any of the specified possessions of the other were attacked, to furnish a supply, on the one hand of arms, on the other of provisions, to the amount of one million of francs; with liberty to each to exonerate itself wholly from the guaranty, by paying, in seven years, the gross sum of five millions of francs in money, or in such securities as might be issued for indemnities; but it was to be at the option of the United States, *in the form of the ratifications*, by discharging the *claim for indemnities*, to relieve themselves from the onerous obligations of the treaties, and from the exclusive rights of the French in our ports, reducing them to such general privileges as are enjoyed by the most favored nations.

In the conversation which followed upon these propositions, the French ministers refused the 2d and 4th, but proposed a modification of the 4th; giving France the same option as the United States, as to renouncing in the ratifications all claims to indemnities on both sides, and providing that the treaties, in that case, should still be maintained in all respects, except that the guaranty should be relinquished, and the privileges of France under the 17th and 22d articles of the treaty of commerce should also be reduced to such privileges, in those respects, as might be enjoyed by the most favored nation. Our envoys endeavored to treat upon a modification of their 2d proposition, so as to make the guaranty a stipulated succor of 2,000,000 of francs in case of attack, and redeemable by the payment, at once, of

10,000,000. But the French ministers refused to treat for any modification of the treaties, unless accompanied with an absolute relinquishment of indemnities, and avowed that, rather than sign such a treaty, even if instructed by their Government to sign it, they would resign. Finding, however, that, although it had become impossible to agree on this subject, there was no difficulty in regard to any of the other articles of a convention that should regulate the relations and rights of the two nations in all other respects, the ministers of the two Governments, on the 30th of September, agreed upon and concluded such a convention, consisting of twenty-seven articles, inserting in it a provision in relation to the treaties and indemnities, connecting and postponing them; which provision stands as the 2d article of the convention, and is in these words:

"Art. 2. The ministers plenipotentiary of the two parties, not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and, until they have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

The convention was immediately ratified by "Bonaparte, First Consul, in the name of the French people."

It will be perceived that, by this 2d article, the French Government solemnly admits its responsibility in regard to the indemnities due to, or claimed by, our citizens, and promises to entertain them as the subject of a further and a distinct negotiation.

When the convention was submitted to the Senate of the United States, by the President, that body thought it could perceive that the French ministers had now not only subscribed to the same admission they had before made, but that they had accompanied it with a better proposal. The Senate appears to have believed that in that article the Government of France said, in effect, to that of the United States, "We owe large sums to certain of your individual citizens, whose claims you represent and control. The grounds of their claims we do not dispute, and we are willing, and now bind ourselves, to arrange for them to the extent to which it shall be found that they have suffered. But we have large claims upon you as a Government, under our treaties; and we hold you to the obligations of the treaties for the future. These we deem of more value than the sums due from us to your citizens. Nevertheless, we put it in your power, by releasing us from those sums, to release yourselves from the damages and obligations which we claim under the treaties. With this we will be content. In proof of which, we have agreed in this article that your obligations to us under the treaties shall be suspended and inoperative until the indemnities claimed by your citizens are provided for, be that time long or short. It is at your option to extinguish our claim at this price, by striking out this article in your ratification, whereby you extinguish the mutual admissions and the mutual promise to negotiate further. In that case, we shall be released forever from our responsibility for the indemnities; and you will be released forever from your responsibilities under the treaties, and for all past damages. The convention will stand complete without this article, and will thenceforward be the only instrument between the two nations that fixes, marks out, and governs their relative rights and grounds of claim."

Believing this to be, in effect, the language of France, the Senate saw that it was now in their power to free this country at once from the entanglement of the treaties, and from all the claims of France arising from them; and they most wisely judged that this freedom was richly worth to the country all that it could possibly cost, by thus making our own Government responsible for the indemnities so taken and used in the purchase. In the ratification, therefore, the second article was stricken out, or rather was declared "to be expunged and of no validity." A provision was also added, limiting the duration of the convention to eight years. Thus conditionally ratified, it went back to France for the assent of that Government. The First Consul saw at once the whole effect of the omission of the article. He saw that thereby France lost her claims and treaties, and that the obligation to pay our citizens was transferred from the French to the American Government. It was not until after considerable delay and correspondence that he consented to accept the ratification; nor would he, to the last, accept it, but on condition that the discharge of France from the indemnities should be expressed in terms. This being acceded to by our minister, (Mr. Murray,) the concurrence of the French Government was at length given by the First Consul, in the following words: "The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *'provided, that by this retrenchment the two States renounce the respective pretensions which are the object of the said article.'*"

This ratification being also conditional, it became necessary to lay the convention again before the Senate, which was done by President Jefferson; and that body, on the 19th of December, 1801, resolved "that they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation."

Thereupon, on the 21st of December, 1801, President Jefferson, by proclamation, announced the convention to be finally ratified.

Our Government then renounced and released to France the claims of the individual citizens of the United States who held and owned those claims as their private property; receiving as a consideration therefor a renunciation and release on the part of France of all her claims, individual and national, for counter indemnities, up to the date of the convention, and of all the obligations of the treaties from that time forward.

From that day no further representations have been made to the French Government by that of the United States on the subject of these claims; for the simple reason, that they have been paid to our Government by France. Prior to this, they constituted the great subject of national complaint and national demand against France. Mr. Jefferson, as Secretary of State, and by command of the President, had, in 1793, called on the merchants who might, under the French decrees, suffer injuries "contrary to the law of nations and existing treaties," to forward the evidence of their claims to the Department of State, with an assurance that "on their forwarding hither well-authenticated evidence of the same, proper proceedings will be adopted for their relief;" so that both the first French decree of May, 1793, had promised indemnity to neutrals that might suffer, and our own Government

had promised its protection to these claims. Our envoys to France had received the most positive instructions to insist upon their payment, and to agree to no arrangement without a provision for them. But since 1801 no minister to France has been authorized to hint to that Government that we have any ground of discontent or of demand against her for indemnities of this class, of a date anterior to that year; simply because these anterior claims of our citizens were then paid to our Government by France. The convention for the cession of Louisiana, in 1803, provided for *debts* due to citizens of the United States, but for none of these claims for spoiliations; simply because these had been paid to our Government by France. Mr. Rives, in the administration of General Jackson, was sent to France to negotiate a treaty for similar indemnities due to our citizens, and he succeeded in obtaining such a treaty, securing payment of all outstanding claims of our citizens upon the French Government, and payment thereof has been made by the French King; but in that negotiation Mr. Rives did not, and could not, present or refer to these claims, simply because it was perfectly well known to both Governments that these claims had already been paid to our Government by France. Millions have been paid to our citizens by foreign States since 1801; and all who have suffered wrongs, except these claimants, have experienced, in this respect, the benefit due to them for their support of a just and energetic Government; these claimants alone, these citizens who equally support that Government, have been excluded from that benefit, simply because their claims have been paid to our Government by France.

All who acted for either nation in the final conclusion of that convention, perfectly understood at the time that these claims were so paid to our Government by France; and that such was the intention of both nations in the ratifications. Mr. Jefferson was President. In December, 1801, he authorized Mr. Madison to write to our minister, (Mr. Livingston,) in respect to the declaratory clause added by the First Consul, the following: "I am authorized to say that the President does not regard the declaratory clause as more than a legitimate inference from the rejection by the Senate of the second article."

Mr. Madison was Secretary of State. Writing to Mr. Pinckney, our minister to Madrid, in 1804, when Spain sought to evade our claims on her, and had cited our relinquishment of these claims to France, Mr. Madison says: "The claims, again, from which France was released, *were admitted* by France; and the release was *for a valuable consideration*, in a correspondent release of the United States from certain claims on them."

Napoleon Bonaparte was the ruler of France. Having occasion to refer to this transaction, while at St. Helena, he said: "The suppression of the second article of the convention put an end to the privileges which France possessed by the treaties of 1778, and annulled the just claims which America might have made for injuries done in time of peace."

Chief Justice Marshall, who was one of the three envoys first sent out, said, in regard to these claims: "If the envoys renounced them, or did not by an article in the treaty save them, the United States would thereby become liable for them to her citizens."

It is as needless as it would be tedious to exhibit in detail the illegal acts of France which gave rise to these claims, for the purpose of showing that they were valid claims against her Government; because their validity has

been admitted and acted upon by both nations, in the most solemn manner in which nations can act upon such subjects.

It may seem equally needless to allude to an argument, (that was no sooner raised than refuted,) that the hostile demonstrations of the two nations, just prior to the convention, might be considered as a state of war that abrogated the claims. Even if it could be said with any truth that there had been war, it would be perfectly absurd to say that the claims which were provided for and paid in the treaty of peace were abrogated by the war! But there was not a war. Neither nation considered itself at war; neither the rulers of France, on their part, nor the Congress of the United States, which alone could declare war, on our part. On the contrary, they expressly avowed to each other that they negotiated upon the same footing as if no "misunderstanding" had existed; that the relation between them had not been that of war; that they treated for the purpose of *preventing war*; and they entertained, discussed, and allowed such mutual propositions and demands, as by their very nature showed their recognition of the uninterrupted obligations of a state of amity. This suggestion, however, of war, is wholly from the purpose, and foreign to the question; for the case of the claimants is, not that their claims have been refused or rejected by France, but that they have been allowed and paid, war or no war, to their own Government, which has appropriated them to its own use; that their Government has received from France the full and admitted value of their claims, in a release from national demands and obligations, which it had before endeavored to purchase of France by the offer of large sums of money, added to other inducements; and that the just amount of their claims is therefore now detained, in the treasury of the United States, from its owners.

The value to this nation of the release obtained from France is too apparent to need a word of comment. How highly it was appreciated by our Government, is evinced by its previous anxiety and long-continued efforts to obtain it. Indeed, prior to the ultimate negotiation, but subsequent to the existence of these claims, Congress had, by an act, declared that the treaties should no longer be considered as in force;—not that it believed that one party can release itself from a compact without the consent of the other; but, knowing what claims could be presented against France as an offset, it was willing to take the responsibility of refusing thereafter to perform obligations so burdensome and vexatious to the country, choosing rather to abide whatever penalty might ensue. At length, a far more satisfactory, and doubtless, also, a cheaper mode of obtaining the release, was found in the use that was made of the fund belonging to these claimants.

Immediately after the promulgation of the convention, (to wit, in the winter of 1801-'2,) many of the claimants presented their memorials to Congress, asking to be indemnified, upon the ground that their claims had been released by our Government to France; but neither they nor the members of Congress were then, or for a long time afterwards, aware of the whole strength of their case, as it existed in the mass of uncollated evidence which was among the archives of the State Department. A favorable report was, however, made from a committee of the House of Representatives, on the 22d of April, 1802, by Mr. Giles; but no further action appears to have been then had upon the memorials in either House. Memorials and petitions continued to be presented from that time to 1827; and various reports (in all, six, including that of Mr. Giles) were from time to time made upon them by the committees to whom they were referred, but without any

further evidence of the obligation of our Government than what might be found in the public laws and treaties. Only two of these reports are adverse to the general principle of responsibility on the part of our Government—and they are very short, containing no evidence of more than a cursory animadversion to the case. Three are long, and are evidence of a close and able examination; and that of Mr. Marion, in 1807, though short, is strong, and is as decidedly favorable as are those of Mr. Giles and Mr. Holmes, which last was made in the Senate in 1827. That of Mr. Russell, made in the House in 1822, though adverse to the case submitted to him upon its particular facts, as being at no time a valid claim against France, yet expresses the deliberate opinion of his committee that the Government of the United States, by impairing the just power of such claimants to resort to France for redress, could be rightly considered as becoming liable for such redress, to the same extent only as it would otherwise have actually been obtained from France; and supposes that had it appeared that our Government had taken and used the claims, as property, for the public good, its responsibility might be unconditional, and not to be measured by the justice of the French Government.

These reports were evidently made without reference to the documents relating to the subject, which were in the State Department, and which were not published until the 1st session of the 19th Congress. In consequence of the numerous memorials that were presented, the Senate, in 1824, made a call for these documents, comprising the instructions to our envoys, and all the correspondence and propositions by and between them and the French ministers, and with the respective Governments, in regard to these claims, and the subjects of the convention. It took more than two years, in the department, to collate and prepare these for communication, and they formed a volume of between 700 and 800 pages; which was subsequently published by order of the Senate. These were communicated under a report from Mr. Clay, then Secretary of State, in which he speaks strikingly of the value of the release obtained from France in consideration of these claims. This publication was a volume of light upon this subject to whoever would patiently bestow the labor required for a due examination of it, as it disclosed and put beyond all reasonable question the fact that the claims had been available to the United States at their full amount, and had been exchanged for an adequate and ample consideration. Soon afterwards, (in May, 1828,) a report in favor of the claimants was made in the Senate, by Mr. Chambers, and a similar one in the House, by Mr. Everett, our present minister in England. A series of reports, in each House, has followed from that time—several of them from some of the wisest and ablest statesmen of their times, including one from Mr. Webster, two from Mr. Livingston, three from Mr. Everett—all upon a patient and faithful examination of the facts, and all of them decidedly and emphatically favorable to the claimants. There are two dissenting statements from individual members of their respective committees; but every report of a committee since 1827 has been for the indemnification. These reports have, in several instances in the Senate, been accompanied by bills appropriating a sum for the payment of the claims, and providing a board of commissioners to investigate them. One of these bills, reported by Mr. Webster, passed the Senate, upon a full discussion, in 1834. But in the House of Representatives, where changes of membership are more frequent, and where the pressing mass of ordinary business is almost beyond the capacity of the

body, there has not yet been found a time for a full discussion and definitive action. Perhaps the labor of the investigation which the subject is supposed to require, as well as its importance, has had a tendency to occasion its postponement. In the mean time, many a respectable citizen, whose enterprise and activity had contributed to the prosperity of the country, has sunk into the vale of poverty, and languished through a comfortless old age, till released from mortification and despondency by death; having nothing to complain of in the individual dealings of his fellow-citizens, but a victim to the inconsiderate and unjust delay of that Government which was instituted for the purpose of securing to him, and to every member of the body politic, the benefits of justice. Others, however, still live to hope, and live to be grateful, for that redemption of national faith, which, though tardy, appears now to be surely on its way; for it is impossible to suppose that the Government of this Union, resting as it does for its existence upon intelligence, faith, virtue, and honor, will leave itself to be charged on the pages of history with the *repudiation* of a debt so understandingly contracted, by an authority so absolutely competent to contract it, and for a consideration so purely national, and so immeasurably valuable.

Resolutions urgently advising a provision for the satisfaction of these claims had, in 1841, been passed and forwarded to Congress by the Legislatures of eight States of this Union, viz: Rhode Island, Maryland, Connecticut, New Hampshire, Maine, Massachusetts, Delaware, and Alabama. Of these, Rhode Island took the lead in 1832, and was followed by Maryland in 1836. Memorials to the same effect have also been presented from disinterested citizens of other States, from members of the convention of Pennsylvania for amending the constitution of that State, and from several boards of trade. Wherever the question meets with attention and examination, there appears to be produced a conviction of its merits.

In 1841, the number of claimants who had memorials before Congress, without including those who petitioned prior to 1827, was 1,011. Of these, twenty-six were citizens of Rhode Island, and claiming large amounts. But this number comprises by no means all of our fellow-citizens who will be entitled to a portion of the compensation that may be awarded. The interest which citizens of this State have in the question, is not only large in amount, but extensive in respect to numbers.

The whole amount of the indemnities due will probably never be ascertained; nor is any near approximation possible, but by means of commissioners who should have power to investigate, and whose awards should be definitive. In 1827 Mr. Clay communicated to a committee of the Senate a list of such cases as were on the files of the State Department, (in number 456,) and estimated the probable amount of eighty-eight of them at \$2,235,702 59. Of the residue he had no means for estimating the amount; but as the above sum applies to less than one-fifth of the number of cases in the department, there can be no doubt that the whole amount is largely over five millions of dollars. The bills reported in the Senate have provided for an appropriation of five millions, in full satisfaction.

It is presumed that a provision perfectly satisfactory to the claimants might now be made, without the slightest embarrassment to the nation. A stock might be issued in convenient certificates. These certificates might form the best of currency, especially as a mode of remittance; or they might be so expressed as to have the qualities of a more fixed capital. Life and usefulness might be thus given to a now dormant property.

But no advantages of any sort can stand in competition with those which at all times necessarily result to a nation from a strict compliance with the obligations of good faith. Beyond all considerations of advantages, or of sacrifices, is the high and paramount obligation which rests upon all nations, and most emphatically upon ours, to respond, without hesitation or reluctance, to the demands of that justice which is the motive and object of political society.

In conformity with the views expressed in the foregoing report, the committee recommend the passage of the following resolutions:

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

IN GENERAL ASSEMBLY, *January session, A. D. 1844.*

Resolved, That, prior to the convention between the United States and France, in 1800, there were large and just claims due from France to citizens of the United States, for spoliations on their commerce; which claims were asserted as just by the Government of the United States, and were not rejected by France.

Resolved, That, by the ratification of said convention, the Government of the United States released France from the payment of said claims, in consideration of a corresponding release from the claims of France against the United States, and from the obligations of the treaties which had before existed between the two nations; and that, in the opinion of this Assembly, the said mutual release has been of great advantage to the United States as a nation.

Resolved, That this was such an appropriation of private property to public use, as, in the opinion of this Assembly, entitles the said citizens to just compensation from the Government of the United States.

Resolved, That a copy of these resolutions and the accompanying report be transmitted by the secretary to each of our Senators and Representatives in Congress; and that they be requested to use their exertions for procuring a just indemnification to said citizens.

True copy of report, with the resolutions adopted thereon.

Witness:

HENRY BOWEN, *Secretary.*